

GEORGIA PESTANA
Corporation Counsel of the City of New York
Attorney for the City of New York
Department of Finance
100 Church Street
New York, New York 10007
(212) 356-2138
Hugh H. Shull
hughs@law.nyc.gov

Hearing Date and Time:
March 8, 2022 at 10:00 am

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X		
In re	:	
	:	
96 WYTHE ACQUISITION LLC,	:	Chapter 11
	:	Case No. 21-22108 (RD)
	:	
	:	
Debtor.	:	
-----X		

**NYC WATER BOARD'S OBJECTION TO CONFIRMATION
OF DEBTOR'S SECOND AMENDED CHAPTER 11 PLAN**

The New York City Water Board ("Water Board"), by its counsel GEORGIA PESTANA, Corporation Counsel of the City of New York, hereby submits its objection (the "Objection") to confirmation of the Debtor's Second Amended Chapter 11 Plan of Reorganization (the "Plan") attached to the Third Amended Disclosure Statement (the "Disclosure Statement") [Dkt. No. 196] :

1. The Water Board filed a secured proof of claim for water and sewer charges in the amount of \$100,522.64 on or about March 30, 2021, which is Claim No. 2 on the Claims Register (the "Water Board Claim"). All sewer rents and water rents, and interest and charges which have been laid upon real estate in the City thereon, are a lien thereon, preferred in payment (along with real property taxes and assessments) to all other charges NYC Admin Code

11-301. The water charges are defined as a tax lien under the provisions of Chapter 3 of Title 11 of the NYC Admin. Code. 11-301 NYC Admin. Code. Thus the Water Board Claim is a secured claim under Bankruptcy Code 506(a), and entitled to post-petition interest under Bankruptcy Code 507(b).

2. The Disclosure Statement lists the Water Board Claim on page 30 of the Disclosure Statement lists the Water Board Claim as among the secured claims and doesn't appear to dispute it. No objection to the Water Board Claim has been filed.

3. The Disclosure Statement does not seem to include the Water Board Claim in any class. Although it may be the Debtor intended the Water Board Claim to be included under Secured Tax Claims under 1.73, it doesn't seem to be treated in that class or any secured creditor class. Class 2 includes the lender's claim. In Class 3 for Secured Property Tax Claims, the Debtor says it has identified one such claim and proposes paying "such Allowed Secured Property Tax Claim" under a proposed installment agreement with the Department of Finance ("DOF") and the Plan in the combined amount of \$3,928,923.57 for pre-petition and post-petition real estate taxes. See Disclosure Statement p. 41. This includes the amounts in DOF Claims No. 10 and 11. Plan section 3.2(c) discusses the Payment Plan proposed by the Debtor with DOF for the real estate taxes, not the Water Board Claim. Plan p. 15. Class 4 is for mechanics and materialmen claims.

4. The Water Board Claim should be treated in the Plan and paid in full. With post-petition interest such claim amounts to \$106,591.14 as of February 16, 2022. Unpaid post-petition water charges are in the amount of \$103.93, some of which is not yet due. The Debtor has largely been current post-petition with water charges. The Water Board, however, does not

agree to any release for related parties and insiders from any claims of City agencies and opts out of any such release.

Dated: New York, New York
February 16, 2022

GEORGIA PESTANA
Corporation Counsel of the City of New York
Attorney for the City of New York
Department of Finance

By: /s/ Hugh H. Shull
Hugh H. Shull
100 Church Street
New York, New York 10007
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